

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

NARSEAL BATISTE,

Plaintiff,

v.

CIVIL ACTION NO. 5:13-cv-13565

FEDERAL BUREAU OF PRISONS, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

On June 6, 2013, the Plaintiff filed two complaints (Documents 6 & 7) in this matter. On November 15, 2013, the Plaintiff filed a *Motion for a Temporary Restraining Order and a Preliminary Injunction* (Document 22). Subsequently, on December 2, 2013, the Defendants filed *Defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment* (Document 27).

By *Memorandum Opinion and Order* (Document 35) entered on December 16, 2013, this Court ordered that this civil action be referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636, with respect to the Plaintiff's *Bivens* claim against the remaining Defendants in their individual capacities. On June 13, 2014, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 56) wherein it is recommended that this Court grant the *Defendants' Motion to Dismiss, or in the Alternative,*

Motion for Summary Judgment (Document 27), deny the Plaintiff's *Motion for a Temporary Restraining Order and a Preliminary Injunction* (Document 22), dismiss the Plaintiff's complaints (Documents 6 & 7), and remove this action from the Court's docket.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation* which were due by July 18, 2014¹. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the *Defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment* (Document 27) be **GRANTED**, the Plaintiff's *Motion for a Temporary Restraining Order and a Preliminary Injunction* (Document 22) be **DENIED**, the Plaintiff's complaints (Documents 6 & 7) be **DISMISSED**, and this action be **REMOVED** from the Court's docket.

¹Objections to the PF&R were originally due by June 30, 2014. However, by *Order* entered on June 27, 2014 (Document 59), the Court extended the Plaintiff's objection deadline to July 18, 2014.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: July 21, 2014

A handwritten signature in blue ink, reading "Irene C. Berger", is written over a horizontal line.

IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA